

# EXHIBIT 18

**PUBLIC VERSION - CONFIDENTIAL MATERIAL OMITTED**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

RYANAIR DAC,

Plaintiff,

v.

BOOKING HOLDINGS INC., KAYAK  
B.V., KAYAK SOFTWARE  
CORPORATION, PRICELINE.COM LLC,  
and AGODA COMPANY PTE. LTD,

Defendants.

C.A. No. 20-01191-WCB

**KAYAK SOFTWARE CORPORATION'S THIRD AMENDED AND  
SUPPLEMENTAL RESPONSES AND OBJECTIONS TO  
PLAINTIFF RYANAIR DAC'S INTERROGATORY NO. 4**

OF COUNSEL:

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*Attorneys for Defendants*

schedules and fares displayed on the public Ryanair website.

**12.** Kayak objects to Plaintiff's Definition of "Refer," "reflect," "relating," and "evidencing" and to all Interrogatories containing those terms, as overbroad, unduly burdensome, vague, and ambiguous, and to the extent those Definitions would impose upon Kayak an obligation in excess of what is called for by the Federal Rules of Civil Procedure. Kayak further objects to the extent those terms require subjective judgment on the part of Kayak and its attorneys and would require a conclusion or opinion of counsel in violation of the attorney work product doctrine.

### **III. SPECIFIC OBJECTIONS AND RESPONSES TO INTERROGATORIES**

#### **INTERROGATORY NO. 4:**

Identify each and every Ryanair flight sold on or through your website from January 2018 to present, including but not limited to when the flight was sold, where the flight originated from, where the flight was going to, the date and time of travel, the passenger name record ("PNR"), and what technology or API was used to facilitate the transaction.

#### **RESPONSE TO INTERROGATORY NO. 4:**

In addition to the foregoing general objections, which Kayak incorporates by reference, Kayak specifically objects to this Interrogatory on the grounds that: (1) it is vague and ambiguous as it relies on the undefined phrase "sold on or through your website"; (2) it is overly broad and unduly burdensome to the extent it requires Kayak to identify voluminous information related to "each and every Ryanair flight" for a period of over five years; (3) it is overly broad and seeks information not reasonably calculated to lead to the discovery of admissible evidence, including "when the flight was sold, where the flight originated from, where the flight was going to, the date and time of travel, [and] the passenger name record"; (4) it is compound, complex, and contains multiple subparts; and (5) it seeks information outside of Kayak's possession, custody, or control.

Subject to the foregoing General Responses, and subject to and without waiving any of its General and Specific Objections, Kayak responds as follows:

Attached as Exhibit A is a HIGHLY CONFIDENTIAL ATTORNEYS' EYES ONLY document showing the number of Ryanair flights sold through a Kayak Whisky booking each day from September 1, 2018 to April 30, 2023, including the date, departure airport and time, arrival airport and time, and the third party who made the booking.

**SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 4:**

In addition to the foregoing general objections, which Kayak incorporates by reference, Kayak specifically objects to this Interrogatory on the grounds that: (1) it is vague and ambiguous as it relies on the undefined phrase "sold on or through your website"; (2) it is overly broad and unduly burdensome to the extent it requires Kayak to identify voluminous information related to "each and every Ryanair flight" for a period of over five years; (3) it is overly broad and not reasonably calculated to lead to the discovery of admissible evidence, including "when the flight was sold, where the flight originated from, where the flight was going to, the date and time of travel, [and] the passenger name record"; (4) it is compound, complex, and contains multiple subparts; (5) it seeks information outside of Kayak's possession, custody, or control; and (6) it seeks information, including the information of third parties, that is confidential, proprietary, or otherwise subject to trade secret protection.

Subject to the foregoing General Responses, and subject to and without waiving any of its General and Specific Objections, Kayak responds as follows:

**RESPONSE CONTAINS HIGHLY CONFIDENTIAL INFORMATION SUBJECT TO THE COURT'S JULY 21, 2023 ORDER (D.I. 192) BELOW**

[REDACTED]

[REDACTED]

**AMENDED SECOND SUPPLEMENTAL RESPONSE TO INTERROGATORY No. 4:**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE CONTAINS HIGHLY CONFIDENTIAL ATTORNEYS' EYES ONLY  
INFORMATION AND INFORMATION SUBJECT TO THE COURT'S JULY 21, 2023  
ORDER (D.I. 192) BELOW**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**THIRD SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 4:**

In addition to the foregoing general objections, which Kayak incorporates by reference, Kayak specifically objects to this Interrogatory on the grounds that: (1) it is vague and ambiguous as it relies on the undefined phrase “sold on or through your website”; (2) it is overly broad and unduly burdensome to the extent it requires Kayak to identify voluminous information related to “each and every Ryanair flight” for a period of over five years; (3) it is overly broad and not reasonably calculated to lead to the discovery of admissible evidence, including “when the flight was sold, where the flight originated from, where the flight was going to, the date and time of travel, [and] the passenger name record”; (4) it is compound, complex, and contains multiple subparts; (5) it seeks information outside of Kayak’s possession, custody, or control; and (6) it seeks information, including the information of third parties, that is confidential, proprietary, or otherwise subject to trade secret protection.

Subject to the foregoing General Responses, and subject to and without waiving any of its General and Specific Objections, Kayak responds as follows:

**RESPONSE CONTAINS HIGHLY CONFIDENTIAL ATTORNEYS’ EYES ONLY INFORMATION BELOW**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

OF COUNSEL:

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Kathleen Hartnett  
Kristine Forderer  
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Dated: September 27, 2023

/s/ Tyler E. Cragg

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Tyler E. Cragg (#6398)  
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cragg@rlf.com

*Attorneys for Defendants*

**CERTIFICATE OF SERVICE**

I hereby certify that on September 27, 2023, a true and correct copy of the foregoing document was caused to be served on the following counsel of record in the manner indicated.

**BY ELECTRONIC MAIL**

R. Touhey Myer  
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tmyer@kratzandbarry.com

**BY ELECTRONIC MAIL**

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Anthony J. Fuga  
HOLLAND & KNIGHT LLP  
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david.donoghue@hklaw.com  
anthony.fuga@hklaw.com

/s/ Tyler E. Cragg

Tyler E. Cragg (#6398)



**VERIFICATION**

I, Alexandria Weltert, declare:

1. I have been authorized by Kayak Software Corporation (“Kayak”) to make this verification as to Kayak’s Third Amended and Supplemental Responses and Objections to Plaintiff Ryanair DAC’s Interrogatory No. 4.

2. I have read the foregoing and am familiar with the contents thereof. Certain matters set forth therein are not within my personal knowledge. Insofar as there are facts included based on a composite of information from other individuals, I am informed and believe that the information set forth therein, and for which I lack personal knowledge, is true and correct.

3. Said responses and objections were prepared with the assistance of counsel for Kayak upon whom I have relied. The responses set forth therein, subject to inadvertent and undiscovered errors, are based upon and necessarily limited by the records and information still in existence, presently recollected, and thus far discovered in the course of preparation of these responses to the Interrogatories. Subject to the limitations as set forth herein, said responses are true to the best of my knowledge, information, and belief.

4. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

//  
//

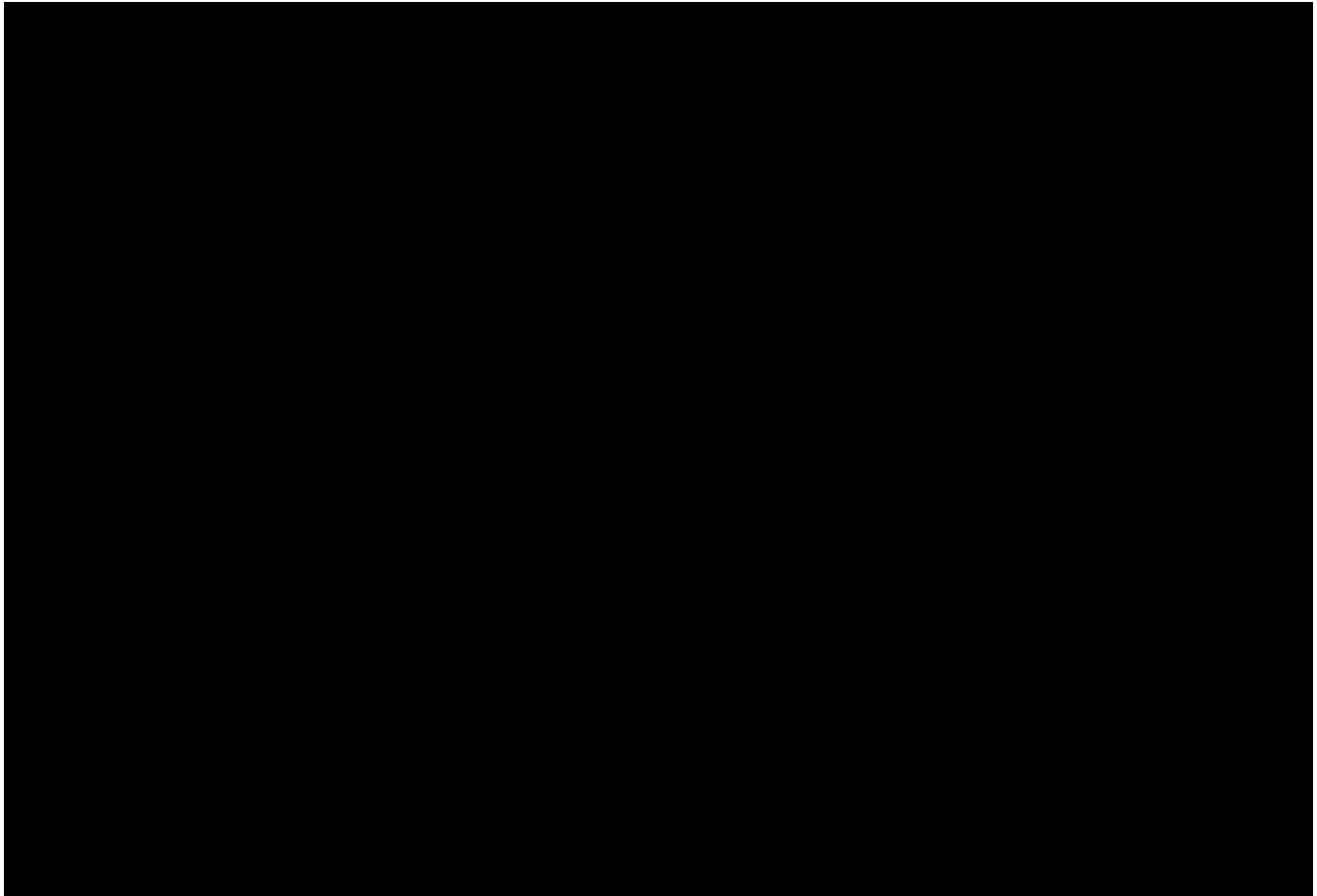
Executed this 27th day of September, 2023.

*Alexandria Weltert*

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Alexandria Weltert

## **EXHIBIT C**



# EXHIBIT 19

**PUBLIC VERSION - CONFIDENTIAL MATERIAL OMITTED**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

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RYANAIR DAC,

Plaintiff,

v.

C.A. No.

BOOKING HOLDINGS INC.,

20-1191-LPS

BOOKING.COM B.V., KAYAK SOFTWARE

CORPORATION, PRICELINE.COM LLC,

and AGODA COMPANY PTE. LTD.,

Defendants.

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VIDEOCONFERENCE HEARING

DATE: Tuesday, September 12, 2023

TIME: 1:59 p.m.

BEFORE: Honorable William Bryson

LOCATION: Remote Proceeding

Howard T. Market National Courts Bldg.

717 Madison Place, Northwest

Washington, D.C. 20439

REPORTED BY: Andrew Weader, Notary Public

JOB NO.: 6100800

<p style="text-align: right;">Page 2</p> <p>1           A P P E A R A N C E S</p> <p>2 ON BEHALF OF PLAINTIFF RYANAIR DAC:</p> <p>3     TOUHEY MYER, ESQUIRE (by videoconference)</p> <p>4     Kratz &amp; Barry LLP</p> <p>5     800 North West Street</p> <p>6     Wilmington, DE 19801</p> <p>7     tmyer@kratzandbarry.com</p> <p>8     (302)527-8378</p> <p>9</p> <p>10    CYNTHIA GIERHART, ESQUIRE (by videoconference)</p> <p>11    Holland &amp; Knight</p> <p>12    800 17th Street NW</p> <p>13    Washington DC 20006</p> <p>14    cynthia.gierhart@hklaw.com</p> <p>15    (202)469-5416</p> <p>16</p> <p>17    ANTHONY FUGA, ESQUIRE (by videoconference)</p> <p>18    Holland &amp; Knight LLP</p> <p>19    150 North Riverside Plaza, Suite 2700</p> <p>20    Chicago, IL 60603</p> <p>21    anthony.fuga@hklaw.com</p> <p>22    (312)715-5771</p> <p>23</p> <p>24</p>	<p style="text-align: right;">Page 4</p> <p>1           A P P E A R A N C E S (Cont'd.)</p> <p>2 ON BEHALF OF DEFENDANTS BOOKING HOLDINGS INC.,</p> <p>3 BOOKING.COM B.V., KAYAK SOFTWARE CORPORATION,</p> <p>4 PRICELINE.COM LLC, AND AGODA COMPANY PTE. LTD.:</p> <p>5     TYLER CRAGG, ESQUIRE (by videoconference)</p> <p>6     Richards, Layton &amp; Finger, P.A.</p> <p>7     One Rodney Square, 920 North King Street</p> <p>8     Wilmington, DE 19801</p> <p>9     cragg@rfl.com</p> <p>10    (302)651-7570</p> <p>11</p> <p>12    KRISTINE FORDERER, ESQUIRE (by videoconference)</p> <p>13    Cooley LLP</p> <p>14    3 Embarcadero Center, 20th Floor</p> <p>15    San Francisco, CA 94111</p> <p>16    kforderer@cooley.com</p> <p>17    (415)693-2128</p> <p>18</p> <p>19    JOHN HEMANN, ESQUIRE (by videoconference)</p> <p>20    Cooley LLP</p> <p>21    3 Embarcadero Center, 20th Floor</p> <p>22    San Francisco, CA 94111</p> <p>23    jhemann@cooley.com</p> <p>24    (415)693-2038</p>
<p style="text-align: right;">Page 3</p> <p>1           A P P E A R A N C E S (Cont'd.)</p> <p>2 ON BEHALF OF PLAINTIFF RYANAIR DAC:</p> <p>3     JI MAO, ESQUIRE (by videoconference)</p> <p>4     Holland &amp; Knight</p> <p>5     31 West 52nd Street 12th Floor</p> <p>6     New York, NY 10019</p> <p>7     ji.mao@hklaw.com</p> <p>8     (212)513-3420</p> <p>9</p> <p>10    WILLIAM OLIVER, ESQUIRE (by videoconference)</p> <p>11    Holland &amp; Knight</p> <p>12    10 Saint James Avenue, 11th Floor</p> <p>13    Boston, MA 02116</p> <p>14    william.oliver@hklaw.com</p> <p>15    (617)573-5863</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p style="text-align: right;">Page 5</p> <p>1           E X H I B I T S</p> <p>2 NO.       DESCRIPTION       ID/EVD</p> <p>3 Plaintiff:</p> <p>4           (None marked.)</p> <p>5</p> <p>6 NO.       DESCRIPTION       ID/EVD</p> <p>7 Defendant:</p> <p>8           (None marked.)</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>

<p style="text-align: right;">Page 6</p> <p>1 PROCEEDINGS</p> <p>2 THE COURT: Good afternoon. This is</p> <p>3 Judge Bryson. Do we have a court reporter on the</p> <p>4 line?</p> <p>5 THE REPORTER: Yes, Your Honor. This</p> <p>6 is Andrew Weader once again --</p> <p>7 THE COURT: Ah, hello, Mr. Weader.</p> <p>8 THE REPORTER: Good afternoon, Your</p> <p>9 Honor.</p> <p>10 THE COURT: Yes. Okay. Good</p> <p>11 afternoon. Morning, afternoon, and I hope not</p> <p>12 evening.</p> <p>13 So we are here on Ryanair against</p> <p>14 Booking Holdings, number 20-1191, a discovery dispute.</p> <p>15 Who's going to speak for -- well, tell me who the</p> <p>16 parties are and who the attorneys are for each of the</p> <p>17 parties. For Ryanair?</p> <p>18 MR. MYER: Good afternoon, Your</p> <p>19 Honor -- apologies. Good afternoon, Your Honor. This</p> <p>20 is Touhey Myer from Kratz and Barry on behalf of</p> <p>21 Ryanair DAC. And also appearing with me today is</p> <p>22 Cindy Gierhart, Anthony Fuga, Ji Mao, and William</p> <p>23 Oliver from Holland and Knight. And Ms. Gierhart will</p> <p>24 be addressing the Court today.</p>	<p style="text-align: right;">Page 8</p> <p>1 you know, particular element of the CFAA claims, we</p> <p>2 have a few different -- at least we've seen some</p> <p>3 emails, exchanged communications directly with the</p> <p>4 CEOs, where the CEOs mention Ryanair by name,</p> <p>5 inquiring whether they have authorization, how they're</p> <p>6 doing it. There's a conversation with Mr. Hafner at</p> <p>7 Kayak, for example, between him and Mr. Guerrero at</p> <p>8 booking.com where he sort of says, "How are we</p> <p>9 treating these airlines where we don't -- where we're</p> <p>10 not permitted to sell them?"</p> <p>11 And Mr. Hafner says, you know, "One</p> <p>12 option is to do it anyway, and there's some risks" --</p> <p>13 THE COURT: Now my understanding</p> <p>14 from -- the email's a little unclear on that, but I</p> <p>15 thought that, in the case of Hafner, the particular</p> <p>16 email seemed to suggest that he was asking the</p> <p>17 question and that there was a response being given</p> <p>18 after that. It was unclear to me. That was on, I</p> <p>19 think, Exhibit C on the second page, I believe, of</p> <p>20 that exhibit. There's a question. And then what</p> <p>21 looks like an answer to the question. Is that all</p> <p>22 part of his question, do you know?</p> <p>23 MS. GIERHART: I think they are</p> <p>24 separate. I obviously don't know, and part of the</p>
<p style="text-align: right;">Page 7</p> <p>1 THE COURT: Okay. And how about for</p> <p>2 the defendants?</p> <p>3 MR. CRAGG: Good afternoon, Your Honor.</p> <p>4 This is Tyler Cragg at Richards, Layton, and Finger on</p> <p>5 behalf of defendants. And I have with me John Hemann</p> <p>6 and Kristine Forderer of Cooley, and Kristine Forderer</p> <p>7 will be giving argument today.</p> <p>8 THE COURT: Okay. Why don't we then</p> <p>9 proceed to hear from the plaintiffs? Ms. Gierhart,</p> <p>10 you're going to carry the ball for the plaintiffs, I</p> <p>11 hear?</p> <p>12 MS. GIERHART: Yes, Your Honor.</p> <p>13 THE COURT: All right. Why don't you</p> <p>14 go ahead? As you address the Court, if you would</p> <p>15 focus on what evidence you have that the particular</p> <p>16 four individuals that you've noted for deposition have</p> <p>17 unique and personal information pertinent to this</p> <p>18 case.</p> <p>19 MS. GIERHART: Yes, Your Honor. So the</p> <p>20 relevance that we've identified that these defendants</p> <p>21 have unique knowledge about is specifically related to</p> <p>22 Ryanair's CFAA claims requiring that Ryanair show that</p> <p>23 Defendants had knowledge of or intentionally committed</p> <p>24 unauthorized access of Ryanair computers. So on that,</p>	<p style="text-align: right;">Page 9</p> <p>1 deposition might be asking these questions, you know,</p> <p>2 "What did you say? What was the response?" But I do</p> <p>3 think there's, you know, sort of when somebody asks</p> <p>4 the question and there's a response in line -- the</p> <p>5 email above says, you know, "Quick answers below." So</p> <p>6 I do think it's a question and answer session --</p> <p>7 THE COURT: Yeah, well -- if that's so,</p> <p>8 then it seems to me that the fact that someone is</p> <p>9 asking a question may be a pretty good indication that</p> <p>10 they are certainly not the person that has the</p> <p>11 information that's being sought, and that it certainly</p> <p>12 isn't unique to them because they're seeking that</p> <p>13 information from another party, and therefore the</p> <p>14 information they have is, at minimum, shared by the</p> <p>15 other party. If I'm reading the email the way it</p> <p>16 seems to read, that would seem to be an inference that</p> <p>17 I would draw.</p> <p>18 MS. GIERHART: Well, I think part of</p> <p>19 the follow-up we'd like to ask to these emails is, it</p> <p>20 seems like maybe this is the first point in time --</p> <p>21 these are at the start of when these parties started</p> <p>22 selling Ryanair flights. So I think there were</p> <p>23 questions in the beginning. We would want to know</p> <p>24 what followed after this. So now Mr. Hafner has</p>

<p style="text-align: right;">Page 34</p> <p>1 category from the other three?</p> <p>2 MS. FORDERER: Because the extent to</p> <p>3 which this case is technical has to do with the way</p> <p>4 that Ryanair's website is accessed, the way that the</p> <p>5 flights are procured. And Kayak -- there's no dispute</p> <p>6 about this. Kayak is not accessing Ryanair's website</p> <p>7 to get these flights. Kayak's contract partners are</p> <p>8 doing that. And, I mean, Plaintiffs themselves sought</p> <p>9 depositions of the contract partners for very reason,</p> <p>10 and justified those depositions on the basis that</p> <p>11 these are the only parties that have that information.</p> <p>12 Only they know the technical details of whether</p> <p>13 there's authorization in the access to the protected</p> <p>14 computer and the elements of the CFAA claim. The CTO</p> <p>15 of Kayak is the CTO of Kayak. Kayak hires somebody to</p> <p>16 do this for them. It's not -- the fact that he has</p> <p>17 technical knowledge generally that we can assume</p> <p>18 because he's a CTO doesn't mean that he knows the ins</p> <p>19 and outs of how a third party is affecting access to</p> <p>20 the website.</p> <p>21 And frankly, they had, you know, a full</p> <p>22 day of deposition with Kayak's director of engineering</p> <p>23 who answered every single question they asked about</p> <p>24 anything technical Kayak-related. I can't imagine</p>	<p style="text-align: right;">Page 36</p> <p>1 these companies, and those are the people that Ryanair</p> <p>2 either is going to have access to or already has had</p> <p>3 access to. It's not the CEOs and the CTO of these</p> <p>4 companies, of the companies that are far far above the</p> <p>5 question of whether they're working together to obtain</p> <p>6 flights from a particular airline out of hundreds of</p> <p>7 airlines that these companies offer.</p> <p>8 THE COURT: So I'm guessing that you</p> <p>9 will agree that there was an agreement between the</p> <p>10 defendants and the aggregators, or the other parties,</p> <p>11 the third-parties as referred to in the complaint, but</p> <p>12 just that the agreement was to do something that was</p> <p>13 legal and not illegal, and therefore doesn't count as</p> <p>14 a conspiracy, within the meaning of the statute. Is</p> <p>15 that right?</p> <p>16 MS. FORDERER: Well, yeah -- and we've</p> <p>17 produced the contracts with the third parties. So we</p> <p>18 have -- the defendant has a contract with the third</p> <p>19 party to provide, you know, fares and schedules and to</p> <p>20 book flights. And the third party, when somebody goes</p> <p>21 on our website and tries to book a flight, the third</p> <p>22 party does that for us -- and so -- but there is an</p> <p>23 agreement --</p> <p>24 THE COURT: The dispute in case, then,</p>
<p style="text-align: right;">Page 35</p> <p>1 that there's a question that, you know, Mateo Brunei</p> <p>2 [ph] who testified for them, and again they didn't</p> <p>3 even use their full time with him, couldn't answer.</p> <p>4 There's no reason why they need the CTO for this.</p> <p>5 THE COURT: What do you think -- what</p> <p>6 would you say in response to Ms. Gierhart's argument</p> <p>7 that, for purposes of the knowledge and intent</p> <p>8 requirement and the conspiracy charges, it is</p> <p>9 important to obtain testimony as to the level of</p> <p>10 knowledge of the people at the top of the</p> <p>11 organizations?</p> <p>12 MS. FORDERER: So I don't -- I think --</p> <p>13 to prove conspiracy, there needs to be an underlying</p> <p>14 violation, a knowing agreement with another party to</p> <p>15 commit an unlawful act, and concerted or common action</p> <p>16 in furtherance of the unlawful act. So none of that</p> <p>17 says, "And the CEO of the company must be in on it."</p> <p>18 Right? There's no -- as you pointed out, there's no</p> <p>19 requirement, and Ryanair certainly doesn't want there</p> <p>20 to be a requirement that it has to come from the top.</p> <p>21 I think, if there's a conspiracy, which of course</p> <p>22 we're going to argue that there isn't, and there</p> <p>23 isn't, if there's a conspiracy, it's going on with the</p> <p>24 people who are involved in the flights business at</p>	<p style="text-align: right;">Page 37</p> <p>1 is not over whether there was an agreement. It is</p> <p>2 whether or not the conduct was unlawful. Right --</p> <p>3 MS. FORDERER: Yeah. I mean -- nobody</p> <p>4 is disputing --</p> <p>5 THE COURT: Is that what it comes down</p> <p>6 to?</p> <p>7 MS. FORDERER: Correct. Yeah, nobody</p> <p>8 is disputing that there is an agreement. And, I mean,</p> <p>9 the conspiracy element in the CFAA is a vicarious</p> <p>10 liability angle; right? It's saying you don't have to</p> <p>11 violate the CFAA yourself. You can be liable if you</p> <p>12 conspire. You can be liable if you attempt to commit.</p> <p>13 As you ruled before, they've got a vicarious liability</p> <p>14 theory and that, at least at the pleading, was a</p> <p>15 viable theory. So there's no -- this just isn't</p> <p>16 really in dispute in my view. I don't see how it's --</p> <p>17 we have agreements with third parties. We've produced</p> <p>18 those to them. The people that they're asking to</p> <p>19 depose are not connected to those agreements, are not</p> <p>20 particularly knowledgeable about those agreements.</p> <p>21 We've given them depositions of the people that are.</p> <p>22 They've asked for more. We're going to give them. I</p> <p>23 just -- I don't see anything in this record that</p> <p>24 justifies deposing the CEOs of any of these companies</p>



<p style="text-align: right;">Page 38</p> <p>1 or the CTO of Kayak.</p> <p>2 THE COURT: All right. If there's</p> <p>3 anything else you wanted to comment on, you may now,</p> <p>4 and then I will turn back to Ms. Gierhart for some</p> <p>5 final thoughts.</p> <p>6 MS. FORDERER: I guess the only other</p> <p>7 point that I would make is that there's a lot of</p> <p>8 discussion about -- you know, I guess if Your Honor is</p> <p>9 inclined in any way to grant these that, you know,</p> <p>10 please take another look at the statute; right? When</p> <p>11 they're talking about intent and knowledge, the way</p> <p>12 that the statute is using intent is intentionally</p> <p>13 accessing a computer without authorization.</p> <p>14 Intentionally accessing a protected computer. There</p> <p>15 is no dispute that the access here is intentional;</p> <p>16 right? You don't need to talk to the CEO of Booking</p> <p>17 Holdings to understand that somebody is accessing the</p> <p>18 Ryanair website on purpose --</p> <p>19 THE COURT: That's pretty much the</p> <p>20 point I was making, I think --</p> <p>21 MS. FORDERER: Yeah.</p> <p>22 THE COURT: -- at least my questioning</p> <p>23 of Ms. Gierhart with respect to both intent and</p> <p>24 conspiracy -- so I understand that point. Yeah. All</p>	<p style="text-align: right;">Page 40</p> <p>1 and I'm quoting, "The apex doctrine does not represent</p> <p>2 an exception to the rule that a party seeking to quash</p> <p>3 has subpoena bears a heavy burden of demonstrating</p> <p>4 that the subpoena represents an undue burden."</p> <p>5 So I think to sort of quickly -- my</p> <p>6 understanding of who had the burden and what this</p> <p>7 means, I think the confusion a little bit is in the</p> <p>8 term "Rebuttable presumption," and I think it's a bit</p> <p>9 of a misnomer as it's been used in the case law.</p> <p>10 There are other cases that don't even use the --</p> <p>11 analyzing the apex doctrine, they don't use the word</p> <p>12 "Rebuttable presumption." They just sort of say</p> <p>13 there'll be two factors, and the burden is on the</p> <p>14 party moving to quash or moving for a protective order</p> <p>15 and they just have these two factors.</p> <p>16 Some cases mention a rebuttable</p> <p>17 presumption. I truly think that's just a misnomer and</p> <p>18 what it means it, you know, it's still your burden,</p> <p>19 because even the cases that use rebuttable presumption</p> <p>20 like this one, still says it's the other party's</p> <p>21 burden, the party moving to quash. I think what they</p> <p>22 mean is just it's your burden. We're just going to</p> <p>23 give you a head start. So you don't have to prove</p> <p>24 there's an undue burden. That's assumed, and then</p>
<p style="text-align: right;">Page 39</p> <p>1 right.</p> <p>2 MS. FORDERER: Okay. Excellent. So I</p> <p>3 mean, I think we should -- I think if you're inclined</p> <p>4 to grant any of them -- I mean, I think that we can --</p> <p>5 I would be happy to talk through with you as you did</p> <p>6 with Ms. Gierhart the specific evidence on each one,</p> <p>7 because I think the evidence that they've put forward</p> <p>8 on each executive is extremely weak, and as you</p> <p>9 pointed out, shows maybe the opposite of what they'd</p> <p>10 like it to show. It shows that the executives are</p> <p>11 asking questions of, in large part, Marcos Guerrero</p> <p>12 who they have already deposed and didn't even use</p> <p>13 their full time with. They didn't show him those</p> <p>14 emails that they've attached to their brief.</p> <p>15 THE COURT: All right. Okay. Let me</p> <p>16 go back to Ms. Gierhart and give her a chance to make</p> <p>17 some final observations.</p> <p>18 MS. GIERHART: Thank you, Your Honor.</p> <p>19 Just a few points. I'll try to be brief. On the</p> <p>20 burden issue, I just wanted to point out the quote</p> <p>21 that both I and Ms. Forderer cited, or the case, the</p> <p>22 Galmines case, where Ms. Forderer said she understands</p> <p>23 rebuttable presumption logically would mean it's an</p> <p>24 exception to the rule. That case specifically says,</p>	<p style="text-align: right;">Page 41</p> <p>1 continue on. It's still your burden of proof, the</p> <p>2 next two elements. So that's my understanding on</p> <p>3 burden.</p> <p>4 Two other points. On what we were just</p> <p>5 discussing, the conspiracy and the intent. I think --</p> <p>6 they say, you know, intent's not at issue, that that's</p> <p>7 admitted. I think there's just some exploration. I</p> <p>8 simply am expecting that in a summary judgment,</p> <p>9 they're going to say something different and they're</p> <p>10 going to say, "Well, sure, intentional, you know -- we</p> <p>11 didn't accidentally access the computer, but we didn't</p> <p>12 intentionally, you know, act unauthorized -- we didn't</p> <p>13 know it was unauthorized, because we thought it</p> <p>14 was" -- I just don't expect them to, you know, simply</p> <p>15 say, "Oh, sure, you've met this element." I think</p> <p>16 we'd like to explore what is the understanding of not</p> <p>17 just, "Yes, we are knowingly selling Ryanair flights,"</p> <p>18 but did you do it knowingly, knowing it was</p> <p>19 unauthorized --</p> <p>20 THE COURT: That's the question, and</p> <p>21 it's I think probably the only question having</p> <p>22 anything to do with intent, and this is, look. I</p> <p>23 don't think anybody's going to dispute that they acted</p> <p>24 intentionally. That is, they did the act that you're</p>

<p style="text-align: right;">Page 46</p> <p>1 the parties, and I thank the court reporter for  2 sitting with us. Any other questions? Anything that  3 you need to raise?  4 MS. FORDERER: Not from our end, Your  5 Honor. Thank you very much.  6 MS. GIERHART: I don't think so, Your  7 Honor. Thank you.  8 THE COURT: All right. I will stay on  9 the line, as I did this morning, Mr. Weader, for a  10 minute or two if you need help with any of the names  11 or any of the statements that were made. Anything  12 that I can help you with, but setting that aside, we  13 are adjourned.  14 THE REPORTER: Perfect -- thank you,  15 Your Honor. Court reporter Andrew Weader. I will  16 need a few spellings, but just in the meantime,  17 plaintiff and defense counsel, did you want a copy of  18 the transcript at this time?  19 MS. FORDERER: Yes, please.  20 MS. GIERHART: And same for us. This  21 is Ms. Gierhart.  22 THE REPORTER: You got it. Thank you.  23 We are off the record at 2:52 p.m.  24</p>	<p style="text-align: right;">Page 48</p> <p>1 CERTIFICATE OF DEPOSITION OFFICER  2 I, ANDREW WEADER, the officer before whom  3 the foregoing proceedings were taken, do hereby  4 certify that any witness(es) in the foregoing  5 proceedings, prior to testifying, were duly sworn;  6 that the proceedings were recorded by me and  7 thereafter reduced to typewriting by a qualified  8 transcriptionist; that said digital audio recording of  9 said proceedings are a true and accurate record to the  10 best of my knowledge, skills, and ability; that I am  11 neither counsel for, related to, nor employed by any  12 of the parties to the action in which this was taken;  13 and, further, that I am not a relative or employee of  14 any counsel or attorney employed by the parties  15 hereto, nor financially or otherwise interested in the  16 outcome of this action.  17  18 <i>Andrew Weader</i>  19  20 ANDREW WEADER  21 Notary Public in and for the  22 Commonwealth of Pennsylvania  23  24</p>
<p style="text-align: right;">Page 47</p> <p>1 (Whereupon, at 2:52 p.m., the  2 proceeding was concluded.)  3  4  5  6  7  8  9  10  11  12  13  14  15  16  17  18  19  20  21  22  23  24</p>	<p style="text-align: right;">Page 49</p> <p>1 CERTIFICATE OF TRANSCRIBER  2 I, RICHARD GOODNESS, do hereby certify that  3 this transcript was prepared from the digital audio  4 recording of the foregoing proceeding, that said  5 transcript is a true and accurate record of the  6 proceedings to the best of my knowledge, skills, and  7 ability; that I am neither counsel for, related to,  8 nor employed by any of the parties to the action in  9 which this was taken; and, further, that I am not a  10 relative or employee of any counsel or attorney  11 employed by the parties hereto, nor financially or  12 otherwise interested in the outcome of this action.  13  14  15 <i>[Signature]</i>  16 RICHARD GOODNESS  17  18  19  20  21  22  23  24</p>

# EXHIBIT 20

**PUBLIC VERSION -  
CONFIDENTIAL MATERIAL OMITTED IN FULL**

# EXHIBIT 21

**PUBLIC VERSION - CONFIDENTIAL MATERIAL OMITTED**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

RYANAIR DAC,

Plaintiff,

vs.

C.A. No.  
1:20-CV-01191-WCB

BOOKING HOLDINGS INC.,  
BOOKING.COM B.V., KAYAK  
SOFTWARE CORPORATION,  
PRICELINE.COM LLC, and AGODA  
COMPANY PTE. LTD.,

Defendants.

- - -  
HIGHLY CONFIDENTIAL  
PURSUANT TO THE PROTECTIVE ORDER  
- - -

REMOTE VIDEOTAPED DEPOSITION OF  
  
CHRISTOPHER HUMPHRIES

Tuesday, 3rd of October, 2023

9:30 a.m. to 5:22 p.m. BST

Reported by:

Ana Maria Gallegos  
NCRA Registered Professional Reporter  
New Mexico CSR No. 190  
California CSR No. 9246  
Magna Legal Services  
866-624-6221 - [www.MagnaLS.com](http://www.MagnaLS.com)  
Job No.: 1037896

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

RYANAIR DAC,  
Plaintiff,

C.A. No.

vs. 1:20-CV-01191-WCB  
BOOKING HOLDINGS INC.,  
BOOKING.COM B.V., KAYAK  
SOFTWARE CORPORATION,  
PRICELINE.COM LLC, and AGODA  
COMPANY PTE. LTD.,  
Defendant.

---  
HIGHLY CONFIDENTIAL  
PURSUANT TO THE PROTECTIVE ORDER  
---

REMOTE VIDEOTAPED DEPOSITION OF  
CHRISTOPHER HUMPHRIES, taken on behalf of the  
Plaintiff, via Remote Videoconference, on Tuesday,  
3rd of October, 2023, from 9:30 a.m. to 5:22 p.m.  
BST, before ANA MARIA GALLEGOS, RPR, CLR, CA CCR  
9246, NM CSR 190.

\* \* \*

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A P P E A R A N C E S

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I N D E X

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SIGNATURE/CORRECTION PAGE	309
REPORTER'S CERTIFICATE	310

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E X H I B I T S  
FORMALLY MARKED  
PAGE

Exhibit 310	Previously Marked Exhibit:	226
	E-Mail Dated 5 Jan 2023 and Related Attachment. Bates Numbers AGODA00000741 Through AGODA00000936	
Exhibit 327	Previously Marked Exhibit:	300
	Identified as an Excel Spreadsheet. File Name: BOOKING.COM00010149.XLSX	
Exhibit 400	E-Mail Dated 6 Oct 2021.	132
	Bates Numbers BOOKING.COM00002764 Through BOOKING.COM00002765	
Exhibit 401	E-Mail Dated 21 Jan 2022.	163
	Bates Numbers BOOKING.COM00002762 Through BOOKING.COM00002763	
Exhibit 402	E-Mail Dated 17 Mar 2022.	171
	Bates Numbers BOOKING.COM00000835 Through BOOKING.COM00000837	
Exhibit 403	E-Mail Chain. Bates Numbers KAYAK0005214 Through KAYAK0005224	184
Exhibit 404	Master Agreement or "Phase 2 Agreement." Bates Numbers BOOKING.COM00000060 Through BOOKING.COM00000143	196

2 (Pages 2 to 5)

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1	EXHIBITS	
2	(Continued)	
3	FORMALLY MARKED	
4	PAGE	
4	Exhibit 405 E-Mail Dated 7 Dec 2020.	241
5	Bates Number	
6	BOOKING.COM00000228	
6	Exhibit 406 E-Mail Dated 15 Jan 2021.	245
7	Bates Number	
7	BOOKING.COM00000227	
8	Exhibit 407 E-Mail Dated 28 Sep 2020.	250
9	Bates Number	
9	BOOKING.COM00000242	
10	Exhibit 408 E-Mail Dated 20 Apr 2020.	256
11	Bates Number	
11	BOOKING.COM00000252	
12	Exhibit 409 E-Mail Dated 15 Jun 2020.	260
13	Bates Numbers	
13	BOOKING.COM00000269	
14	Through	
14	BOOKING.COM00000270	
15	Exhibit 410 E-Mail Dated 22 Apr 2022.	263
16	Bates Numbers	
16	BOOKING.COM00000426	
17	Through	
17	BOOKING.COM00000428	
18	Exhibit 411 E-Mail Dated 21 Jun 2021.	268
19	Bates Numbers	
19	BOOKING.COM00000192	
20	Through	
20	BOOKING.COM00000193	
21	Exhibit 412 E-Mail Dated 7 Jul 2021.	276
22	Bates Numbers	
22	BOOKING.COM00000190	
23	Through	
23	BOOKING.COM00000191	
24		
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1	EXHIBITS	
2	(Continued)	
3	FORMALLY MARKED	
4	PAGE	
4	Exhibit 413 E-Mail Dated 17 May 2021.	282
5	Bates Numbers	
5	BOOKING.COM00000207	
6	Through	
6	BOOKING.COM00000208	
7	Exhibit 414 Screenshot of Ticket (1	285
8	adult) and price. No	
8	Bates Number	
9	Exhibit 415 E-Mail Dated 3 Mar 2020,	290
10	and Related Attachment.	
10	Bates Numbers	
11	BOOKING.COM00000471	
11	Through	
12	BOOKING.COM00000480	
12	Exhibit 416 Document Titled Highly	300
13	Confidential - For	
13	Internal Use Only. Bates	
14	Numbers	
14	BOOKING.COM00002388	
15	Through	
15	BOOKING.COM00002389	
16	Exhibit 417 E-Mail Dated 10 Jun 2022.	304
17	Bates Number	
17	BOOKING.COM00005686	
18		
19		
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24		
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1 3 OCTOBER 2023

2 - - -

3 THE VIDEOGRAPHER: Okay. Good morning.

4 We're now on the record. This begins Videotape

5 Number 1 in the deposition of Chris Humphries in

6 the matter of Ryanair DAC versus Booking Holdings

7 Inc., et al. This is case number

8 1:20-CV-01191-WCB, filed in the US District Court

9 for the District of Delaware.

10 Today's date is Tuesday, October 3rd,

11 2023. The time on the video monitor is now

12 9:30 a.m.

13 This deposition will be taken remotely at

14 the request of Holland & Knight, attorneys for

15 Plaintiff.

16 The videographer is Joel Coriat of Magna

17 Legal Services. The court reporter is Ana Gallegos

18 also from Magna Legal Services.

19 Will counsel please state your appearances

20 for the record.

21 MR. FUGA: This is Anthony Fuga with the

22 law firm of Holland & Knight representing the

23 Plaintiff Ryanair.

24 MR. HEMANN: John Hemann from Cooley on

25 behalf of Defendants, including Booking.com and

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1 Mr. Humphries. With us here in London is Kelsey

2 McGlynn, an attorney from Booking.com.

3 THE VIDEOGRAPHER: Thank you, Counsel.

4 The court reporter, please swear in the

5 deponent.

6 THE COURT REPORTER: Thank you.

7 Mr. Humphries, raise your right hand,

8 please.

9 Do you solemnly state under penalty of

10 perjury that the testimony you give in this matter

11 will be the truth, the whole truth, and nothing but

12 the truth?

13 THE WITNESS: I do.

14 THE COURT REPORTER: Thank you very much.

15 THE VIDEOGRAPHER: Thank you. You may

16 proceed.

17 EXAMINATION

18 BY MR. FUGA:

19 Q. Good morning, Mr. Humphries.

20 Can you please say and spell your name for

21 the record?

22 A. My full name is Christopher Humphries. I

23 go by Chris. Spelling is C-H-R-I-S. Last name,

24 H-U-M-P-H-R-I-E-S.

25 Q. Great. Thank you.

3 (Pages 6 to 9)

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1 Q. Do you know when Booking.com started  
2 selling Ryanair flights?

3 A. No, I do not.

4 Q. From an estimate, have you ever remembered  
5 a time when Booking.com did not sell Ryanair  
6 flights?

7 A. The example I gave you of recently Ryanair  
8 flights were not live on our platform, yes.

9 Q. Do you know how long that lasted that  
10 Ryanair flights were not live on your platform?

11 A. I don't know accurately, no.

12 Q. Was it a matter of hours?

13 A. I believe so.

14 Q. Has that ever happened before with  
15 Ryanair?

16 A. Potentially. I don't recall. We often  
17 have outages for various airlines.

18 Q. How often do you determine why there was  
19 an outage?

20 MR. HEMANN: Objection as to form.

21 THE WITNESS: It depends on the reason for  
22 the outage.

23 BY MR. FUGA:

24 Q. I guess that is my question is, sometimes  
25 you are able to determine the reason for the

Page 123

1 outage?

2 A. No, not precisely.

3 Q. And were you able to determine the reason  
4 for the Ryanair outage?

5 A. No, I was not.

6 Q. Do you know if Etraveli was able to  
7 determine the reason for the Ryanair outage?

8 A. I don't know.

9 Q. Who would know?

10 A. Etraveli can answer that question for you.

11 Q. When a customer books a flight on  
12 Booking.com, what is the interaction between  
13 Booking.com and Etraveli?

14 A. In what sense?

15 Q. Are they connected through an API?

16 A. Yes, we are connected to Etraveli through  
17 an API.

18 Q. And is Booking -- so if a customer  
19 purchases a flight on Booking.com, is that request,  
20 I guess, transferred to Etraveli through the API?

21 A. I believe so, yes.

22 Q. Then what happens?

23 A. I don't know the technical details of what  
24 happens in that process through the API.

25 Q. What do you understand that happens from a

Page 124

1 layman's purpose?

2 A. A customer attempts to make booking on our  
3 platform. Some information is sent via API to  
4 Etraveli and Etraveli issues the ticket.

5 Q. When you say issues the ticket, issues the  
6 ticket to Booking.com?

7 A. To the customer.

8 Q. To the customer.

9 What is Booking.com's role in that?

10 A. We don't have a role in issuing the  
11 ticket.

12 Q. Does the customer know that Etraveli is  
13 booking -- or is issuing the ticket?

14 A. I don't know if the customer does or does  
15 not know.

16 Q. All of this is happening on -- I guess  
17 does the customer ever leave Booking.com's  
18 platform?

19 A. I mean, the customer can leave the  
20 platform any time they wish.

21 Q. But when a customer is booking a ticket,  
22 from searching for the flight to obtaining the  
23 ticket, does the customer leave the Booking.com  
24 platform?

25 A. Not where we have flights live, no.

Page 125

1 Q. Okay. I'm just trying to understand it  
2 here. The customer is not like directed to  
3 Etraveli and then back to Booking.com. The  
4 customer remains on Booking.com, right?

5 A. If it is a market where we were live, the  
6 API connection with Etraveli, the customer does not  
7 leave Booking.com.

8 Q. Are there any markets where the customer  
9 does leave Booking.com?

10 A. Depends on what they're trying to do.

11 Q. I guess for -- if I'm buying a Ryanair  
12 flight, I'm staying on the Booking.com platform,  
13 correct?

14 A. Presumably, yes.

15 Q. Do you know if it's possible for a  
16 customer to book a Ryanair flight when the Ryanair  
17 flight is down -- when the Ryanair website is down?

18 A. I don't know.

19 Q. Are you aware of that ever happening?

20 A. No, I'm not aware. I don't pay attention  
21 to Ryanair's website.

22 Q. But that's never been discussed?

23 A. Not to my knowledge.

24 Q. Has Booking.com ever told Etraveli to stop  
25 booking flights from an airline, other than the

32 (Pages 122 to 125)



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1 BY MR. FUGA:

2 Q. Not related to this e-mail. Related to  
3 the conversation with Wizzair.

4 MR. HEMANN: Objection. Form.

5 THE WITNESS: I don't know what actions  
6 came out of that conversation with Wizzair. We  
7 were not in attendance.

8 BY MR. FUGA:

9 Q. I understand that you weren't in  
10 attendance.

11 Do you understand that Booking.com --  
12 whether or not Booking.com did anything in response  
13 to this discussion with Wizzair?

14 A. No, I don't know.

15 Q. Who would know?

16 A. Potentially Arnaud Delbary.

17 Q. Who is cc'd on this e-mail?

18 A. Xaveer Fluitman.

19 Q. Do you know who that is?

20 A. I believe he is Arnaud's manager.

21 Q. Arnaud says that he told Wizzair that he  
22 would "share their concerns with the relevant  
23 stakeholders in our business," presumably referring  
24 to Booking.com.

25 Do you see that?

Page 307

1 A. I see where he says that, yes.

2 Q. Who do you believe to be the relevant  
3 stakeholder at Booking.com?

4 MR. HEMANN: Objection as to form.

5 THE WITNESS: I can assume he felt myself,  
6 Anne Housseau, and Marcos Guerrero were the  
7 relevant stakeholders, since he addressed this  
8 e-mail to us.

9 BY MR. FUGA:

10 Q. And do you know what Booking.com's  
11 position is, as he requests a response?

12 MR. HEMANN: Objection as to form.

13 THE WITNESS: Not to my knowledge. I  
14 don't think we have a position on the issue.

15 BY MR. FUGA:

16 Q. Did anybody discuss it with Wizzair, as he  
17 requests in that last e-mail -- or in that last  
18 paragraph?

19 MR. HEMANN: Objection as to form.

20 THE WITNESS: Not that I'm aware of, no.

21 BY MR. FUGA:

22 Q. Did Booking.com consider any commercial  
23 solutions or opportunities, as he requests here in  
24 this last paragraph?

25 MR. HEMANN: Objection as to form.

Page 308

1 THE WITNESS: Not that I'm aware of.

2 BY MR. FUGA:

3 Q. Are you aware of Booking.com taking any  
4 actions in response to Ryanair notifying  
5 Booking.com that it is not authorized to access its  
6 website?

7 MR. HEMANN: Objection as to form.

8 THE WITNESS: Not that I'm aware of.

9 MR. FUGA: All right. That is all I have  
10 for the time being.

11 MR. HEMANN: No questions for me.

12 MR. FUGA: All right. Thank you for your  
13 time, Mr. Humphries.

14 THE WITNESS: Thank you.

15 THE VIDEOGRAPHER: Thank you.

16 And that concludes today's proceedings.

17 We're off the record at 5:22.

18 (Whereupon, the deposition was  
19 concluded at 5:22 p.m.)

Page 309

1 Ryanair DAC v Booking Holdings Inc., et al.

2 DEPONENT SIGNATURE/CORRECTION PAGE

3 If there are any typographical errors to your

4 Deposition, please indicate them below:

5 PAGE LINE

6 Change to

7 Change to

8 Change to

9 Change to

10 Change to

11 Any other changes to your Deposition are to be  
12 listed below with a statement as to the reason for  
13 such change:

14 PAGE LINE CORRECTION REASON FOR CHANGE

15 \_\_\_\_\_

16 \_\_\_\_\_

17 \_\_\_\_\_

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20 \_\_\_\_\_

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23 \_\_\_\_\_

24 \_\_\_\_\_

25 \_\_\_\_\_

I, CHRISTOPHER HUMPHRIES, do hereby certify  
that I have read the foregoing pages of my  
testimony as transcribed, and that the same is a  
true and correct record of the testimony given by  
me in this Deposition on October 3, 2023, except  
for the changes made.

24 Date Signed

CHRISTOPHER HUMPHRIES

78 (Pages 306 to 309)

## REPORTER'S CERTIFICATE

I, ANA MARIA GALLEGOS, RPR, CLR, CA CSR #9246, NM CCR #190, real-time reporter, hereby certify that the testimony of the witness, CHRISTOPHER HUMPHRIES, in the foregoing transcript taken on Tuesday, 3rd day of October, 2023, was recorded by me in machine shorthand and was, thereafter, transcribed by me; and that the foregoing transcript is a true and accurate verbatim record of the said testimony.

I FURTHER CERTIFY that I am neither a relative, employee, counsel or financially involved with any of the parties to the within cause, nor am I an employee or relative of any counsel for the parties, nor am I in any way interested in the outcome of the within cause.

---

ANA MARIA GALLEGOS, RPR, CLR  
CA CSR #9246, NM CCR #190  
Dated: 10/06/2023

DEPOSITION OF: Chris Humphries

DATE OF DEPOSITION: October 3, 2023

CASE: *Ryanair DAC v. Booking Holdings Inc., et al*, Case No. 20-1191-WCB

# ERRATA SHEET

The following are the corrections which I have made to my deposition transcript:

Pg.	Ln.	Now Reads	Should Read	Reason
14	8-9, 13, 17	Christine	Kristine	Misspelling
19	9	were	was	Misspelling
26	19, 20	fair	fare	Misspelling
36	11	account	count	Misspelling
44	23	between Ryanair and	between tickets on Ryanair and	Clarification
45	12	sellers	sellers'	Misspelling
63	5	site	side	Misspelling
67	9	Mattias Schmid	Mattias Schmidt	Misspelling
83	9	yes	no	Clarification
108	15	acquisition of E process.	acquisition of Etraveli process.	Clarification
127	18	teams	team's	Misspelling
156	2	aggregate	aggregator	Misspelling
167	1	booking	Booking	Misspelling
189	14	outcome though	outcome, no	Transcription Error
190	6	of kind of	of a kind of	Transcription Error
237	15	Eventually	Essentially	Clarification
243	13-14	come in trough in through Google	come in through Google	Transcription Error
267	1	those around.	those surround	Transcription Error
268	6	knowledge too.	knowledge, no.	Transcription Error

DEPOSITION OF: Chris Humphries

DATE OF DEPOSITION: October 3, 2023

CASE: *Ryanair DAC v. Booking Holdings Inc., et al*, Case No. 20-1191-WCB

279	5	but occasion	but on occasion	Transcription Error
284	8	Never	No	Transcription Error
301	5	honestly	on	Transcription Error

I, the undersigned, declare under penalty of perjury, that I have read the above-referenced deposition transcript and have made any corrections, additions or deletions reflecting my true and correct testimony.

EXECUTED this 17, day of November, 2023 at 5:57pm.

*Chris Humphries*

---

Christopher Humphries

# EXHIBIT 22

**PUBLIC VERSION -  
CONFIDENTIAL MATERIAL OMITTED IN FULL**

# EXHIBIT 23

**PUBLIC VERSION - CONFIDENTIAL MATERIAL OMITTED**

CONTAINS MATERIAL FOR ATTORNEYS' EYES ONLY PURSUANT TO THE  
PROTECTIVE ORDER (D.I. 52)

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

---

RYANAIR DAC,

*Plaintiff,*

v.

BOOKING HOLDINGS INC.,  
BOOKING.COM B.V., KAYAK SOFTWARE  
CORPORATION, PRICELINE.COM LLC,  
and AGODA COMPANY PTE., LTD.,

*Defendants.*

---

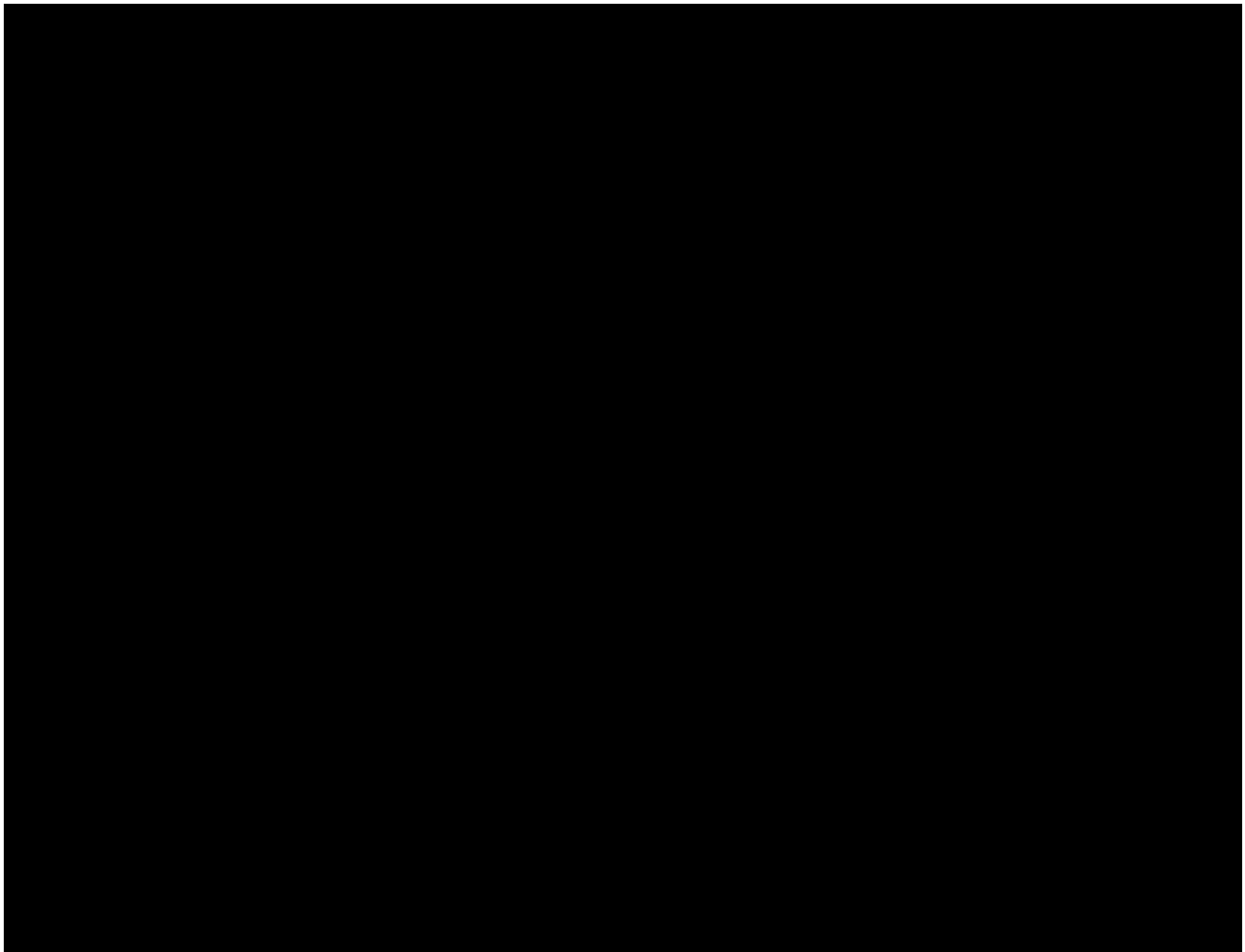
C.A. No. 1:20-cv-01191-WCB

**PLAINTIFF, RYANAIR DAC'S THIRD SUPPLEMENTAL AND AMENDED  
RESPONSES TO DEFENDANTS' SECOND SET OF INTERROGATORIES**

CONTAINS MATERIAL FOR ATTORNEYS' EYES ONLY PURSUANT TO THE  
PROTECTIVE ORDER (D.I. 52)

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure and the Local Rules, Plaintiff Ryanair DAC ("Ryanair") hereby provides these third supplemental and amended responses and objections to Booking Holdings Inc., Booking.com B.V., Kayak Software Corporation, Priceline.com LLC, and Agoda Company Pte. Ltd (collectively, the "Defendants") Second Set of Interrogatories (Nos. 15-29) to Ryanair dated December 30, 2022, as follows:

Discovery is ongoing. The following responses and objections are made to the best of Ryanair's present knowledge, information and belief and are based on records and information reasonably available to Ryanair as of the date of this response. Ryanair expressly reserves the right to supplement without prejudice the following responses and objections, and to revise any and all responses and objections as additional facts are ascertained, analyses are made, legal research is completed, contentions are made or as a result of the Court's legal determination on



**END ATTORNEYS' EYES ONLY TREATMENT**

Discovery in this litigation is ongoing. Ryanair expressly reserves the right to supplement or amend its response as discovery progresses including, during or as a result of expert discovery.

**SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 15:**

Subject to and without waiver of the foregoing general and specific objections, Ryanair incorporates its response to Interrogatory No. 2 (including all supplements), and supplements the response as follows.

Pursuant to Rule 33(d), Ryanair directs Defendants to documents with the Bates numbers: RYANAIR-BOOKING\_0004091; RYANAIR-BOOKING\_0004117; RYANAIR-BOOKING-0016224; RYANAIR-BOOKING-0016277 - RYANAIR-BOOKING-0016282; RYANAIR-



BOOKING-0014288; RYANAIR-BOOKING-0014301; RYANAIR-BOOKING-0016108 -  
RYANAIR-BOOKING-0016109; RYANAIR-BOOKING\_0026432; RYANAIR-  
BOOKING\_0026785; RYANAIR-BOOKING\_0026642; RYANAIR-BOOKING\_0026788;  
RYANAIR-BOOKING\_0026799; RYANAIR-BOOKING\_0026863; RYANAIR-  
BOOKING\_0027208; RYANAIR-BOOKING\_0027295 - RYANAIR-BOOKING\_0027298;  
RYANAIR-BOOKING\_0028873; RYANAIR-BOOKING\_0026642; and RYANAIR-  
BOOKING\_0029887.

Discovery in this litigation is ongoing. Ryanair expressly reserves the right to supplement or amend its response as discovery progresses including, during or as a result of expert discovery.

**SECOND SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 15:**

Subject to and without waiver of the foregoing general and specific objections, Ryanair incorporates its response to Interrogatory No. 2 (including all supplements), and supplements the response as follows.

**BEGIN ATTORNEYS' EYES ONLY TREATMENT**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]















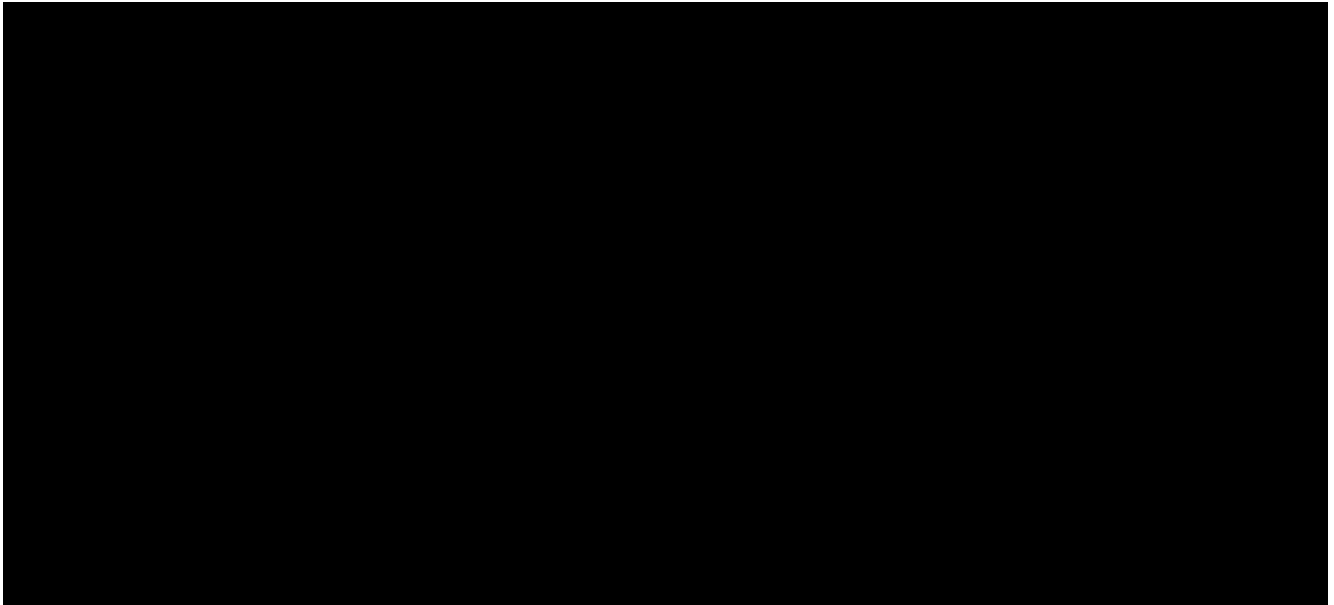












**END ATTORNEYS' EYES ONLY TREATMENT**

Discovery in this litigation is ongoing. Ryanair expressly reserves the right to supplement or amend its response as discovery progresses including, during or as a result of expert discovery.

**INTERROGATORY NO. 16:**

State all bases, reasons, and rationale for blocking or attempting to block a Person from accessing the Ryanair Website.

**RESPONSE TO INTERROGATORY NO 16.**

Ryanair objects to this Interrogatory to the extent it seeks information protected by the attorney-client privilege, the work product doctrine, or any other applicable privilege or protection. Ryanair further objects to this Interrogatory as overly broad and unduly burdensome to the extent that it calls to "state all bases, reasons, and rationale." Ryanair further objects to this Interrogatory as duplicative with Interrogatory No. 6 and incorporates its response to that Interrogatory.

Subject to and without waiver of the foregoing general and specific objections, Ryanair further responds as follows. Ryanair will block a Person who violates the Ryanair Website Terms of Use (“Ryanair TOU”). The Ryanair TOU states:

4. Reservation of all rights to ensure permitted use and/or prevent unauthorised use. **Ryanair reserves the absolute right to take all actions it considers necessary against all parties howsoever involved in the unauthorised use of its website and without notice, in order to vindicate its rights and prevent such unauthorised use, including using blocking technology** (which may itself involve conducting automated searches of such parties’ websites, screen scraping therefrom, causing such parties to screen scrape Ryanair’s website, breaching the terms of use such parties’ websites, or any similar or associated actions) and/or issuing legal proceedings.

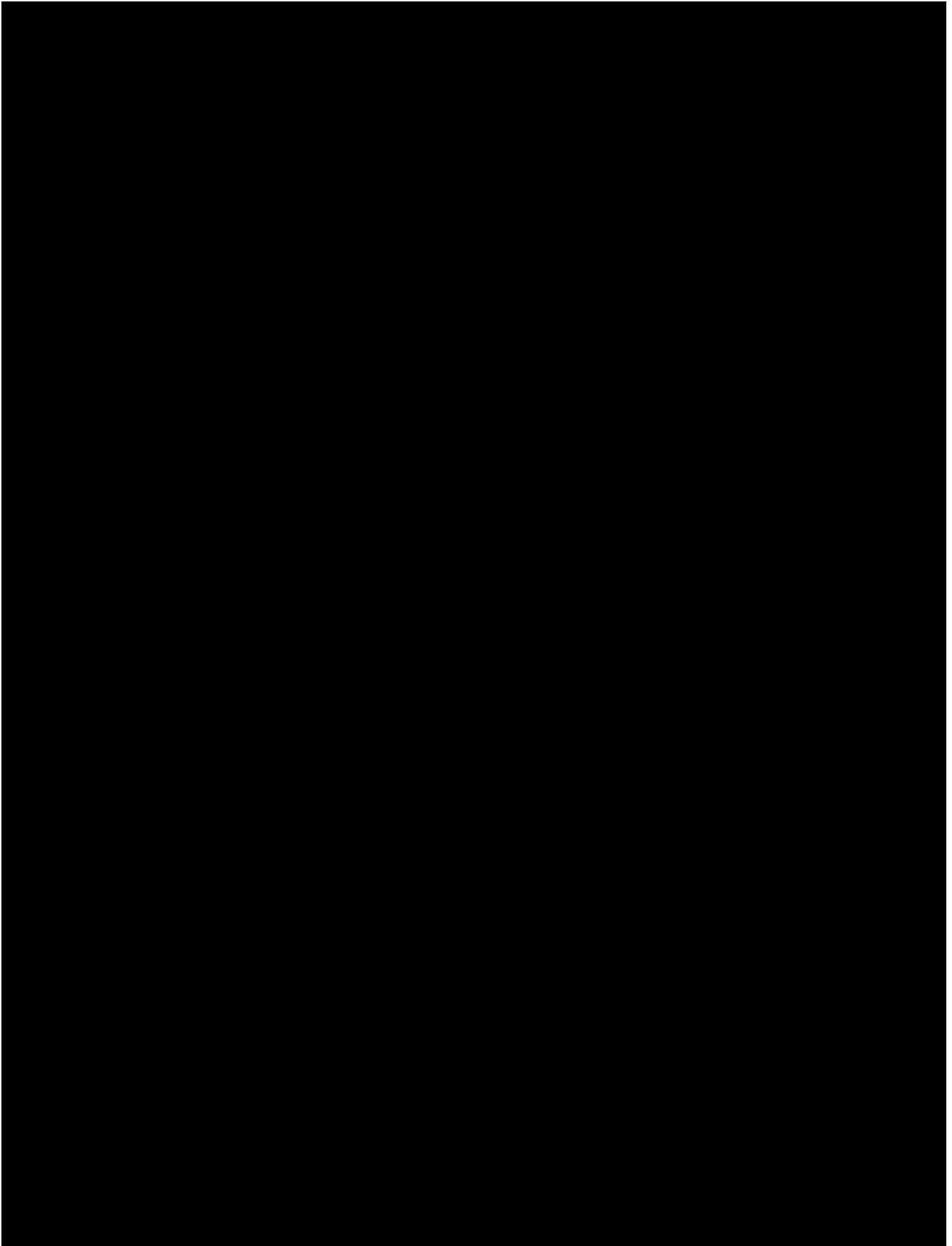
Ryanair TOU, paragraph 4 (emphasis added); *see* FAC, Ex. A.

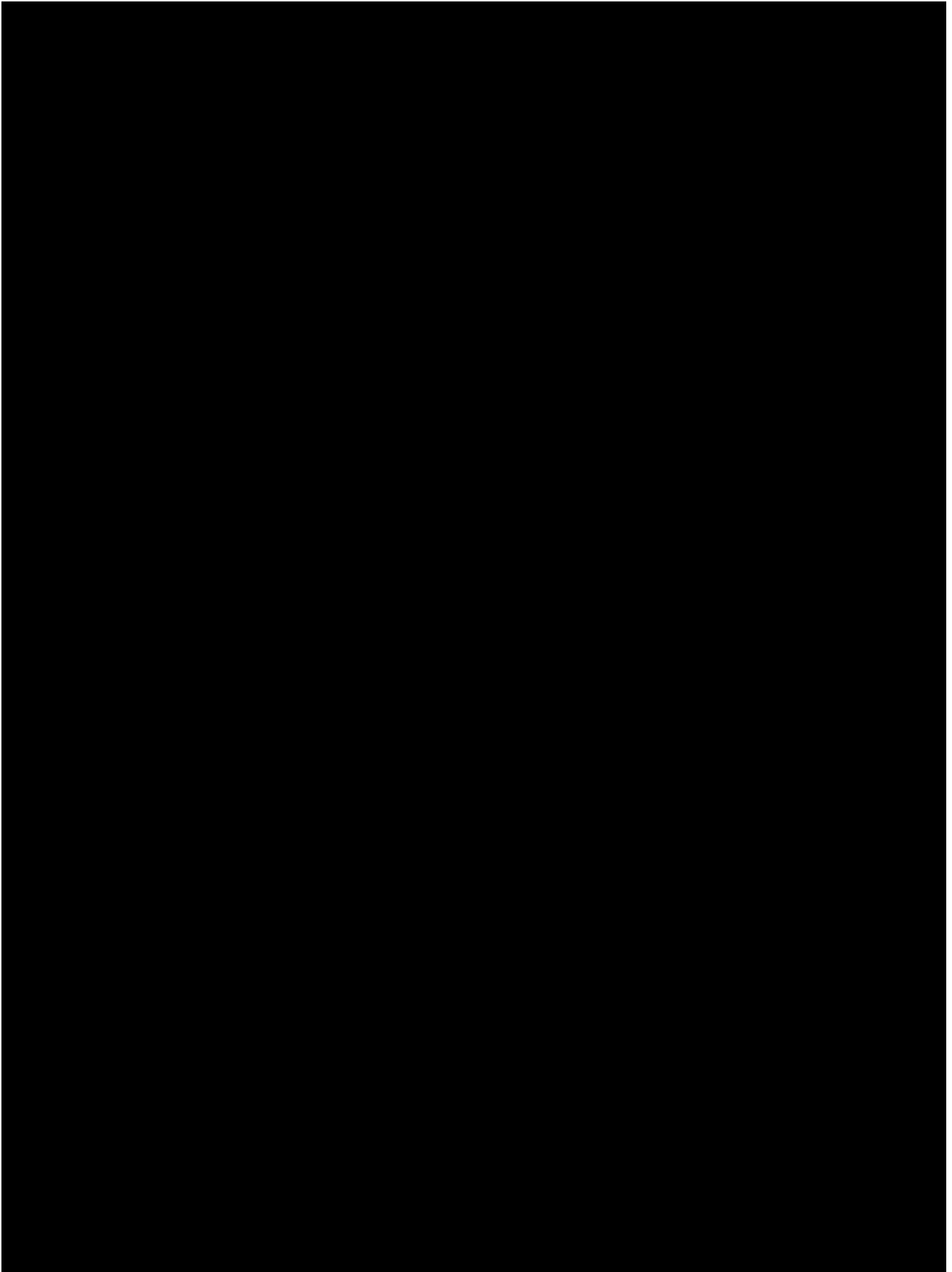
Every Person must agree to the Ryanair TOU in order to access the Ryanair Website and enter the myRyanair portion of the Ryanair Website. The Ryanair TOU explains that by accessing the Ryanair Website, users agree to be legally bound by and act in accordance with the Ryanair TOU. This includes agreement that Ryanair may implement blocking technology to block or attempt to block an unauthorized Person from accessing the Ryanair Website.

The Ryanair TOU further states Ryanair is the exclusive online distribution channel for its airline flights. The Ryanair TOU clearly states users of the Ryanair Website are not permitted to use the Ryanair Website other than for private, non-commercial purposes and notifies price comparison websites that they must apply for a license agreement to access Ryanair’s price, flight, and timetable information for the purpose of price comparison.

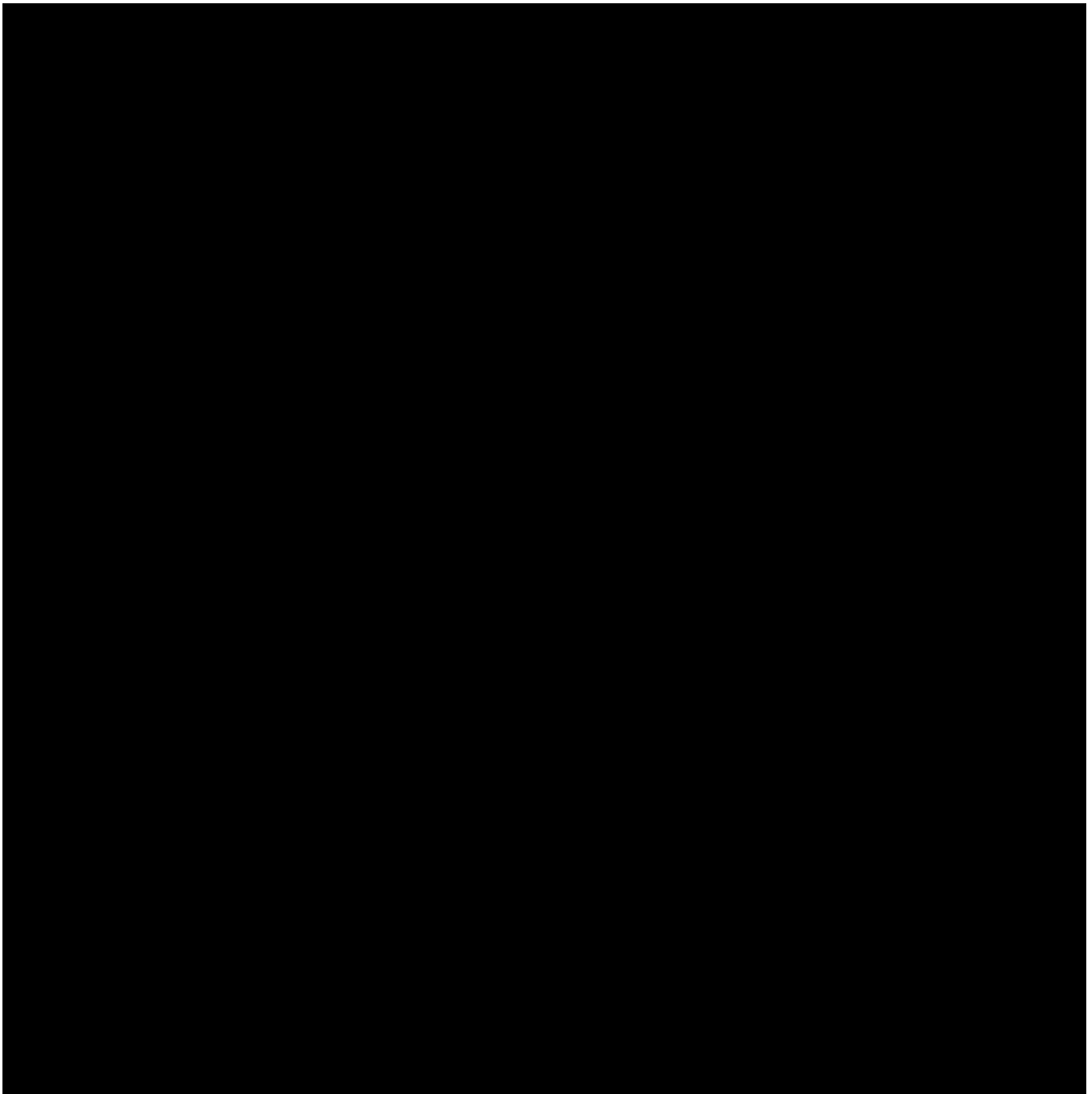
Any violation of the Ryanair TOU is a basis, reason, or rational for blocking a Person from accessing the Ryanair Website.

**BEGIN ATTORNEYS’ EYES ONLY TREATMENT**









**END ATTORNEYS' EYES ONLY TREATMENT**

Discovery in this litigation is ongoing. Ryanair expressly reserves the right to supplement or amend its response as discovery progresses including, during or as a result of expert discovery.

[illegible]

## END ATTORNEYS' EYES ONLY TREATMENT

Discovery in this litigation is ongoing. Ryanair expressly reserves the right to supplement or amend its response as discovery progresses including, during or as a result of expert discovery.

**SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 21.**

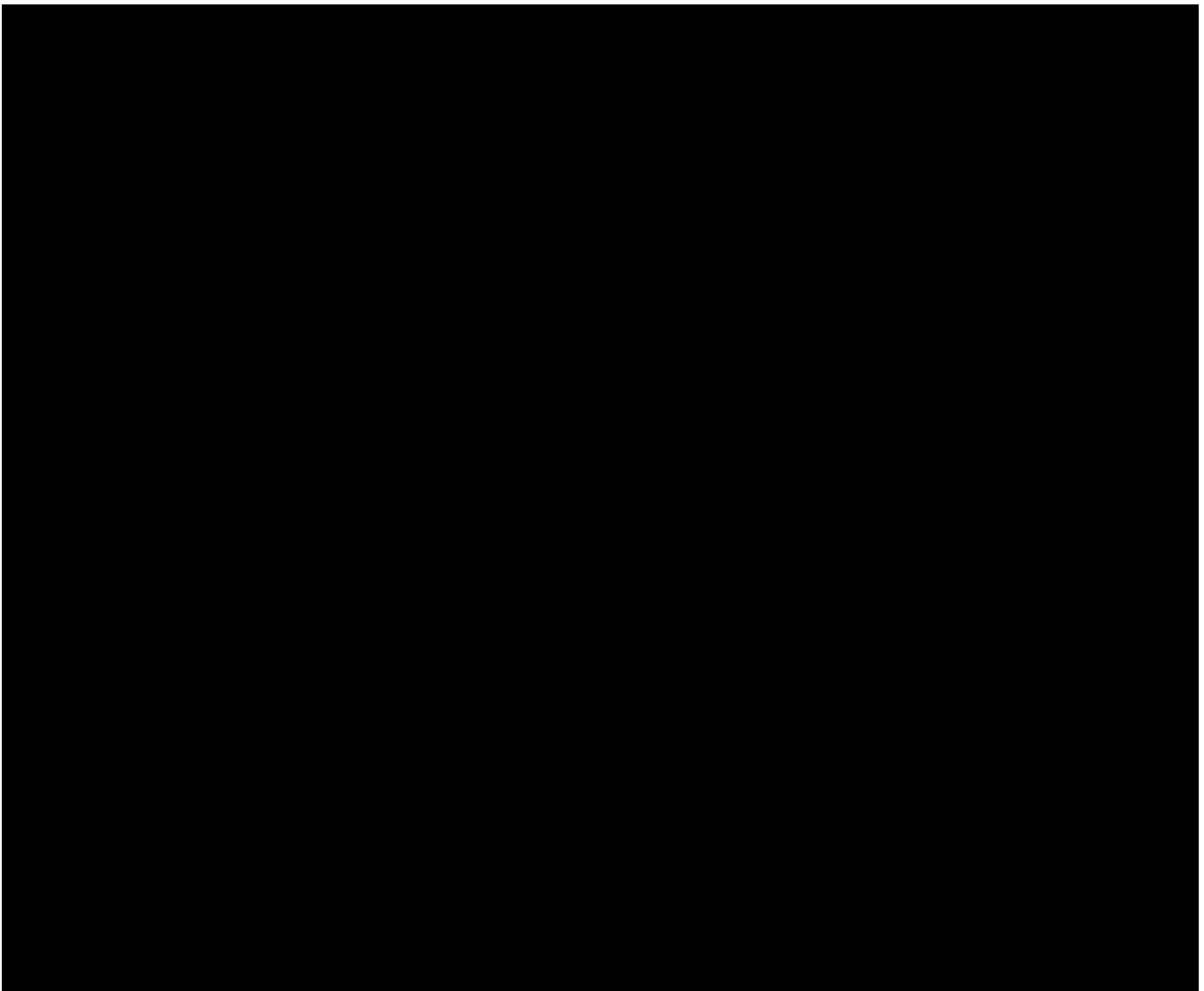
Subject to and without waiver of the foregoing general and specific objections, Ryanair incorporates its response to Interrogatory No. 2 (including all supplements), and further supplements the response as follows.

**BEGIN CONFIDENTIAL TREATMENT**

A large black rectangular redaction box covers the majority of the page content, starting below the header and ending above the footer. The box is solid black and extends across the full width of the page.

**END CONFIDENTIAL TREATMENT**

Discovery in this litigation is ongoing. Ryanair expressly reserves the right to supplement or amend its response as discovery progresses including, during or as a result of expert discovery.



**END ATTORNEYS' EYES ONLY TREATMENT**

Discovery in this litigation is ongoing. Ryanair expressly reserves the right to supplement or amend its response as discovery progresses including, during or as a result of expert discovery.

**INTERROGATORY NO. 23:**

Explain in detail why You require customers who allegedly booked Ryanair flights through OTAs or third party intermediaries to “verify” themselves online for a fee, or arrive early at the airport, as described in paragraphs 25 and 26 of the Counterclaims, Including (1) the additional information you require of the customer in each circumstance, (2) why such information is required

in order for the customer to fly on Ryanair, (3) what “verification checks” You are doing, and (4) the cost of such “verification checks” to Ryanair.

**RESPONSE TO INTERROGATORY NO 23.**


Ryanair objects to this Interrogatory to the extent it seeks information that is protected by the attorney-client privilege, the work product doctrine, or any other applicable privilege or protection. Ryanair objects to this Interrogatory because it has distinct subparts.

Subject to and without waiver of the foregoing general and specific objections, Ryanair further responds as follows. A verification check verifies the identity of the person associated with the relevant booking. Ryanair must ensure that all passengers are aware of relevant security and safety requirements. Ryanair does this by having passengers confirm their compliance with these requirements during check-in. Verification enables Ryanair to ensure that a passenger on the booking (and not a third-party travel agent) has completed check-in personally. This is necessary because OTAs, like the Defendants and those acting at their direction, often use bots to complete the booking process and Ryanair may not be able to engage directly with the customer about important information without the verification process.

During verification the customer is required to show a valid passport or a national identity card. The customer must either present the passport or national identity card at the airport check-in desk on the day of travel or complete the online verification process. During online verification, facial recognition technology will match the passport or national identity card to a photo taken in real time. If verification is successful, the customer will be asked to provide the correct email address to ensure Ryanair can contact the customer with important information relating to the booking.

The online verification process is available at a cost of €0.35 per booking. This fee goes toward covering the costs of the third-party online verification tool (by GetID). Ryanair does not benefit commercially from this transaction – in fact, the fee does not even cover the full costs to Ryanair to use the third-party service.

For example, Ryanair has sent the following emails, shown as templates, to customers explain why additional verification is necessary:



Dear Customer,

Your booking <PNR> appears to have been made via a third party intermediary or BOT which are not authorized by Ryanair to use the Ryanair website or app or to offer our flights for sale. We do this to keep prices low as intermediaries may apply massive mark-ups to fares or ancillary products such as bags, seats and priority boarding.

In addition to this, there are safety and security issues that affect passengers and our crew. The check-in process must be completed by a passenger personally to ensure passengers are in notice of, and have confirmed compliance with required safety, security and public health protocols, including those set out by the ICAO Technical Instructions, Regulation (EU) 2015/1998, and the EASA/ECDC Covid-19 Aviation Health Safety Protocol.

As you may have made your booking via an unauthorized intermediary, we may not have been provided with your correct contact and payment details, which may prevent us from:

- Notifying you of required safety, security and public health protocols.
- Notifying you of required mandatory travel forms.
- Assisting the health authorities with contact tracing for Covid-19.
- Contacting you with important flight updates and terminal changes.
- Fulfilling our post-contractual obligations (such as processing valid refund claims), as set out in EU Regulation 261/2004 and in Ryanair's General Terms & Conditions of Carriage.

IN ORDER TO RESOLVE THESE ISSUES, YOU HAVE THE OPTION TO CHECK-IN BY:

**ONLINE VERIFICATION**

- A passenger on this booking can verify using facial recognition technology.
- This service is provided on the Ryanair website for a fee of €0.35.
- Online Verification allows you to manage your booking via Ryanair.com.

Verify Online

The cost of this service is to cover the verification checks, Ryanair does not benefit from this transaction commercially.

If you don't want to use online verification, all passengers on this booking can attend the Ryanair ticket desk at least 120 mins before departure to check-in free of charge. Please note that our airports are busier than usual in the summer months and queues may be longer as a result as we must provide a safe workplace for our staff.

Thank you in advance for your cooperation with this safety precaution.

To check if you have been charged more by the unauthorized intermediary, you can use our Price Checker tool available on Ryanair.com which will quickly show you what Ryanair received for this booking. To find the lowest fares, look for the Ryanair Verified Seal. This guarantees you are booking directly on the Ryanair.com website or app.

Thank you for choosing Ryanair.

Kind regards

Ryanair Customer Services

Ryanair Holdings plc (Company No. 249885) / Ryanair D.A.C. (Company No. 104547).

Registered in the Republic of Ireland. With registered address Airside Business Park, Swords, Co. Dublin, Ireland.



**IMPORTANT NOTICE**

Dear Customer

Our Ref -

This booking has been identified as an unauthorised online travel agent (OTA) booking. Unauthorised OTAs have no commercial arrangement with Ryanair, and use "screen scraper" software to mis-sell Ryanair flights in breach of the Terms of Use of the Ryanair website.

Screen scraper OTAs provide Ryanair with false customer details which prevents us from notifying passengers of important safety, security and public health requirements, including information relation to prohibited dangerous items and local Covid-19 safety precautions. Furthermore, the false payment and contact details screen scraper OTAs provide Ryanair for customers inhibits Ryanair from providing our post-contractual obligations, as set out in EC Regulation No. 261/2004 and in Ryanair's General Terms & Conditions of Carriage, to passengers. Providing Ryanair with false customer information means we cannot ensure compliance with the important safety, security and public health requirements of the ICAO Technical Instructions and Regulation (EU) 2015/1998 and the EASA/ECDC Covid-19 Aviation Health Safety Protocol operational guidelines.

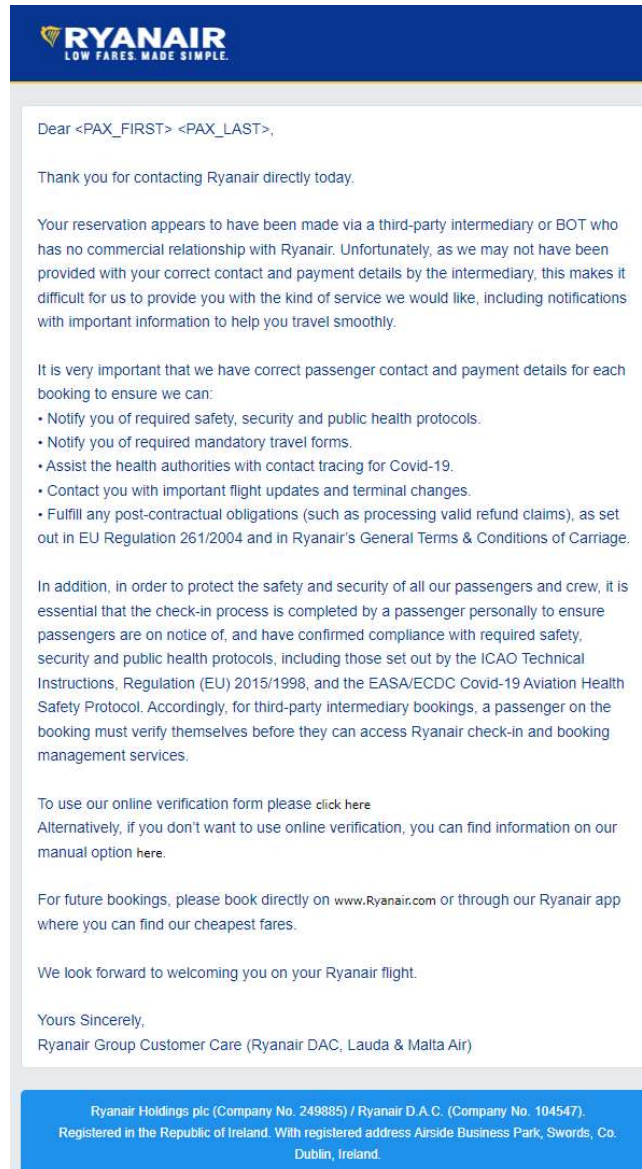
IN ORDER TO RESOLVE THESE ISSUES, **THE PASSENGER(S) IN THIS BOOKING MUST ATTEND TO THE RYANAIR TICKET DESK AT THE AIRPORT OF DEPARTURE AT LEAST 90 MINS BEFORE OF DEPARTURE** TO MAKE THE REQUIRED DECLARATIONS OF COMPLIANCE WITH SAFETY, SECURITY AND PUBLIC HEALTH REQUIREMENTS.

Yours sincerely,

Ryanair Customer Care

Ryanair D.A.C. (Company No. 104547).  
Dublin Office, Airside Business Park, Swords, Co. Dublin, Ireland.





Pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, Ryanair directs Defendants to documents with the Bates stamps RYANAIR-BOOKING\_0016111, RYANAIR-BOOKING\_0016116, RYANAIR-BOOKING\_0016118, RYANAIR-BOOKING\_0016125, RYANAIR-BOOKING\_0016128, RYANAIR-BOOKING\_0016190, RYANAIR-BOOKING\_0016199, RYANAIR-BOOKING\_0016200, RYANAIR-BOOKING\_0016213, RYANAIR-BOOKING\_0016214, RYANAIR-BOOKING\_0016218, RYANAIR-BOOKING\_0016222, RYANAIR-BOOKING\_0016223, and RYANAIR-BOOKING-0016250.

Discovery in this litigation is ongoing. Ryanair expressly reserves the right to supplement or amend its response as discovery progresses including, during or as a result of expert discovery.

**SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 25:**

Subject to and without waiver of the foregoing general and specific objections, Ryanair incorporates its response to Interrogatory Nos. 30 and 31.

Discovery in this litigation is ongoing. Ryanair expressly reserves the right to supplement or amend its response as discovery progresses including, during or as a result of expert discovery.

**AMENDED SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 23:**

Subject to and without waiver of the foregoing general and specific objections, Ryanair amends the section header of the supplemental response to correct the typo and read, in part, “INTERROGATORY NO. 23” and not “INTERROGATORY NO. 25.”

**SECOND SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 23:**

Subject to and without waiver of the foregoing general and specific objections, Ryanair incorporates its response to Interrogatory Nos. 2, 30 and 31 (including all supplements), and further supplements the response as follows.

**BEGIN ATTORNEYS’ EYES ONLY TREATMENT**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

## END ATTORNEYS' EYES ONLY TREATMENT

Discovery in this litigation is ongoing. Ryanair expressly reserves the right to supplement or amend its response as discovery progresses including, during or as a result of expert discovery.

**INTERROGATORY NO. 24:**

Identify all information that is obtained through creating an account on myRyanair or by purchasing a ticket from Ryanair's Website.

Dated: October 6, 2023

Respectfully submitted,

**KRATZ & BARRY LLP**

/s/ R Touhey Myer

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*Attorneys for Plaintiff/  
Counterclaim Defendant, Ryanair DAC*

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

RYANAIR DAC,

*Plaintiff,*

v.

BOOKING HOLDINGS INC.,  
BOOKING.COM B.V., KYAK SOFTWARE  
CORPORATION, PRICELINE.COM LLC,  
and AGODA COMPANY PTE., LTD.,

*Defendants.*

C.A. No. 1:20-cv-01191-WCB

**CERTIFICATE OF SERVICE**

I, R Touhey Myer, hereby certify that on October 6, 2023, a copy of the foregoing *Plaintiff*,  
*Ryanair DAC's Third Supplemental and Amended Responses to Defendants' Second Set of*  
*Interrogatories* was caused to be served upon the following counsel of record via electronic mail:

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LLC, and Agoda Company Pte. Ltd.*

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*Counsel for Defendants,  
Booking Holdings Inc., Booking.com B.V.,  
Kayak Software Corporation, Priceline.com  
LLC, and Agoda Company Pte. Ltd.*

Dated: October 6, 2023

**KRATZ & BARRY LLP**

/s/ R Touhey Myer  
R Touhey Myer (#5939)  
800 N. West Street  
Wilmington, DE 19801  
(302) 527-9378  
tmyer@kratzandbarry.com

*Of Counsel:*

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# EXHIBIT 24

**PUBLIC VERSION -  
CONFIDENTIAL MATERIAL OMITTED IN FULL**

# EXHIBIT 25

**PUBLIC VERSION -  
CONFIDENTIAL MATERIAL OMITTED IN FULL**